

Minutes of the regular meeting of the Fairfax City Council on Tuesday, April 13, 2004, at 7:00 p.m., in Council Chambers at Fairfax City Hall.

Members Present:

Mayor Lederer and Councilmembers Cross, Greenfield, Lyon, Rasmussen, Silverthorne and Winter.

Members Absent:

None.

Invocation.

Councilman Silverthorne requested a moment of silence be observed for the troops overseas.

Pledge of Allegiance.

The Mayor led the Council in the Pledge of Allegiance.

Presentations.

The Mayor read a proclamation in celebration of the 100th birthday of city resident, Leola Fern McAdams on April 9, 2004.

Adoption of the agenda.

Councilman Silverthorne moved adoption of the agenda.

The Mayor requested to move the Closed Meeting after Council Comments.

Councilwoman Lyon seconded the motion as amended, which carried unanimously by voice vote.

Councilman Silverthorne requested that council recess to view the Presidential News Conference at 8:30 p.m.

Presentations by the public on any item not subject to public hearing.

Mr. Jerry O'Dell, 3920 Bradwater Street, talked about issues he hoped to address at the upcoming Candidates' Night, April 21, 2004. He also talked about ordinances to be introduced regarding bawdy places and prostitution.

Consent agenda.

Councilman Greenfield moved adoption of the following consent agenda:

- Agenda item #5a, Consideration of an award of contract in the amount of \$49,205 to OMNI Excavators, Inc., for drainage improvements on Colony Road;
- Agenda item #5b, Consideration of a contract amendment to the existing contract with The Louis Berger Group, Inc. in the amount of \$53,000 for nonpoint grant program work related to environmental education and pilot Low Impact Development projects;
- Agenda item #5c, Introduction of an appropriation resolution in the amount of \$25,000 for weight equipment at Fairfax High School;
- Agenda item #5d, Introduction of an appropriation resolution in the amount of \$31,176 for Federal Grant Expenditures;
- Agenda item #5e, Introduction of an ordinance amending Division 1, Article VI, Chapter 54, by adding thereto a new section, Section 54-223.1, pertaining to “bawdy places”;
- Agenda item #5f, Introduction of an ordinance amending Section 54-226, Division 1, Article VI, Chapter 54, pertaining to indecent exposure;
- Agenda item #5g, Introduction of an ordinance amending Section 54-223, Division 1, Article VI, Chapter 54, pertaining to prostitution; and,
- Agenda item #5h, Introduction of an ordinance granting a Deed of Easement to Raj K. Kapoor to use a portion of the Old Lee Highway Right-of-Way for the installation of monitoring wells.

and for agenda items #5a and b, he moved approval of the suggested motion in the staff report, and for agenda items #5c, d, e, f, g and h, he moved to waive the first reading and set the public hearings for April 27, 2004.

Councilman Rasmussen seconded the motion.

The Mayor asked if anyone wished to abstain or object to any of the items. No one did.

The Mayor called for a vote on the motion, which carried unanimously by voice vote.

Public hearing and council action on an ordinance amending Chapter 98, Article IV, Division 3, Section 98-215 of the Code of the City of Fairfax, Virginia by adding thereto a

new section (14) establishing a Permit Parking District on Brookwood Drive between Old Lee Highway and Spring Lake Terrace.

This public hearing was properly advertised in the March 26 and April 2, 2004 issues of *The Washington Times*.

Director of Public Works John Veneziano presented the staff report, which is incorporated into the record by reference. He said the residents have requested to extend the permit parking district to Brookwood Drive to help eliminate students parking there during the day to avoid paying for parking at the high school.

Councilwoman Lyon inquired about permits for guest parking.

Mr. Veneziano said that each resident is provided two temporary tags and additional passes could be requested from the City Manager.

Councilman Silverthorne asked about the high school's parking policy and the availability of parking at the high school.

Mr. Veneziano said there is sufficient parking available at the high school.

Councilmember Winter asked if there were other options and about times that permits would be required.

Mr. Veneziano said for events, parking is available at the high school and there were not any other options at this time.

The Mayor said he received an email on this issue from Paul Sullivan, President of Country Club Hills Civic Association, and said he would provide to the city clerk.

Councilman Greenfield asked if the petition included everyone on Brookwood Drive.

Mr. Veneziano replied the petition was not circulated by the city and it did not include everyone but met the criteria of more than 50%.

Councilman Greenfield asked if we explained to the residents what the implications are.

Mr. Veneziano said that basic information was provided to representatives of the neighborhood for dissemination to the residents. He said if the ordinance is passed, each resident will be notified.

Councilman Greenfield said he was concerned that the residents were not specifically informed.

Councilmember Winter asked what the enforcement procedures were.

Mr. Veneziano replied that violators would incur a \$40 fine but could not state how often police patrol the area.

Councilmember Winter said stiffer penalties, such as towing, may alleviate the problem.

The Mayor commented that the program works well in other areas.

The Mayor opened the public hearing.

Mr. Jerry O'Dell, 3920 Bradwater Street, suggested modifying student parking policies at Fairfax High School.

The Mayor closed the public hearing.

Councilwoman Lyon moved to defer action to the May 11, 2004 council meeting.

Councilmember Winter seconded the motion.

Councilwoman Lyon said deferring the action would allow notification to all residents.

The Mayor called for a vote on the motion, which carried unanimously by voice vote.

Public hearing and council action for a special use permit for Apple Federal Credit Union for a drive-thru window and special exceptions for parking reduction and existing nonconformities at 9701 Main Street.

This public hearing was properly advertised in the March 26 and April 2, 2004 issues of *The Washington Times*.

Planner Heidi Meyers Waugh presented the staff report, which is incorporated into the record by reference. She said staff recommends approval of the applicant's Special Use Permit and Special Exception requests based on the analysis of the criteria and written findings specified in the staff report, subject to the following conditions:

1. The applicant shall consolidate Tax Map Parcels 58-3-((05))-01-002 & 003 during the site plan approval process;
2. The applicant shall remove the existing freestanding automatic teller machine (ATM) prior to obtaining a building permit;
3. The applicant shall remove the existing pylon sign prior to obtaining a building permit;
4. The applicant shall install a "No Right Turn" sign on the island adjacent to the drive-through banking lanes; and
5. The proposed development shall be constructed in substantial conformance with the Special Use Permit/Special Exception Plat and Landscape Plan, prepared by Tri-Tek Engineering and dated March 10, 2004, and the architectural elevations, prepared by Wisniewski Blair & Associates, Ltd. and dated April 5, 2004.

Councilman Greenfield said the applicant does not maintain the southern boundary of the property behind a fence and asked how City Council could ensure it would be maintained.

Community Development & Planning Director David Hudson said City Council could stipulate another condition for approval that the applicant be required to maintain the property in an appropriate manner. He said that would be preferable to moving the fence to the property line.

The Mayor opened the public hearing.

Mr. Don Clark, architect with Wisniewski Blair & Associates, Ltd., 44 Canal Center Plaza, Suite 100, Alexandria, Virginia 22314 reviewed the proposed project and requested City Council consider keeping the ATM in process as long as possible.

Mr. David Reed, 4029 Ridge Top Road, representative of the owner, said that the majority of members at Apple Federal Credit Union are educationally related, including: Fairfax County Public Schools, George Mason University and Northern Virginia Community College.

Councilman Greenfield asked if they would be amenable to accepting a condition to maintain the southern property area.

Mr. Reed said it was their intent to maintain the property and they were just recently advised of the situation.

Mrs. Florence Marsh, 4012 Trapp Road, said her residence, since 1951, is located directly behind the credit union. She said the applicant does not maintain the property and shrubbery at their shared property line. She said there have been fallen trees lying there since Hurricane Isabel. She said she contacted the credit union and was told it was not their problem.

Councilmember Winter suggested to re-look at the type of plantings that are installed, and choose something that would be less maintenance.

Mr. Jerry O'Dell, 3920 Bradwater Street, talked about handicap access to the site.

The Mayor closed the public hearing.

Councilman Greenfield moved that the City Council adopt a resolution approving Special Use Permit 1464-03-1, the request of Apple Federal Credit Union, by David Reed, Attorney/Agent, for a special use permit, pursuant to City Code Section 110-762(a)(3), to allow a financial institution with a drive-in banking facility, and adopt a resolution approving SE-358-03-1 with the following conditions:

1. The applicant shall consolidate Tax Map Parcels 58-3-((05)-01-002 & 003 during the site plan approval process;

2. The applicant shall remove the existing freestanding automatic teller machine (ATM) prior to ~~obtaining a building permit~~ issuance of a non-residential use permit;
3. The applicant shall remove the existing pylon sign prior to obtaining a building permit;
4. The applicant shall install a “No Right Turn” sign on the island adjacent to the drive-through banking lanes;
5. The proposed development shall be constructed in substantial conformance with the Special Use Permit/Special Exception Plat and Landscape Plan, prepared by Tri-Tek Engineering and dated March 10, 2004, and the architectural elevations, prepared by Wisnewski Blair & Associates, Ltd. and dated April 5, 2004; and
6. The applicant shall maintain the perimeter buffer strips in good repair, including maintaining all plant material, lawn areas and fences, as well as removing any debris on a consistent basis.

Councilmember Winter seconded the motion.

Councilwoman Cross asked that City Council change condition #2 to require removal of the ATM prior to issuance of a Non-Residential Use Permit instead of prior to obtaining a building permit.

The Mayor asked if that was the intent of the mover and seconder of the motion and it was agreed. The Mayor said it is now part of the main motion.

The Mayor called for a vote on the motion, which carried unanimously by voice vote.

Consideration of adoption of the Fiscal Year 2004/2005 operating budget and the Capital Improvements Program for Fiscal Years 2004/2005 – 2008/2009.

Councilman Greenfield moved adoption of the general fund, capital fund, sewer fund, water fund, stormwater fund, Old Town Service District, open space fund, cable grant fund and transit fund budgets for the 2004-2005 fiscal year and the adoption of the 2004/2005 – 2008/2009 Capital Improvement Program.

Councilman Rasmussen seconded the motion.

Councilwoman Lyon moved to amend the main motion to incorporate all changes included in the budget change document.

Councilman Greenfield seconded the motion.

Councilman Silverthorne asked if there were any changes to the document since the last mark-up session.

City Manager Robert Sisson said there were no changes.

Councilwoman Cross moved to amend the budget change document motion to reinstate \$25,000 in matched advertising dollars for Destination Fairfax. She said it sends the wrong message to businesses who have supported this.

Councilmember Winter seconded the motion.

The Mayor said this reduction and others are the result of council's request to staff to reduce expenses by \$100,000.

City Manager Bob Sisson said any matched monies that are needed would be provided for Destination Fairfax and an appropriation would be brought to council at that time and this was an effort to balance the budget.

The Mayor suggested that Councilwoman Cross come back at a later date with a request for an appropriation and not handle during the budget process.

The Mayor called for a vote on the motion to amend the budget change document, which failed by a roll call vote of 1-5, recorded as follows: In favor, Councilwoman Cross; opposed, Councilmembers Greenfield, Lyon, Rasmussen, Silverthorne and Winter.

The Mayor asked for any other amendments to the budget change document motion.

Councilman Silverthorne requested staff to explore other senior tax relief programs that may be available.

The Mayor requested that council address the issue at a later work session and there were no objections.

The Mayor called for a vote to amend the main motion to incorporate all the changes in the budget change document, which carried unanimously by a roll call vote, recorded as follows: In favor, Councilmembers Cross, Greenfield, Lyon, Rasmussen, Silverthorne and Winter; opposed, none.

Councilwoman Cross moved to set the amount of the employee wage adjustment (cost of living increase) for all full-time classified employees, permanent part-time employees, the Treasurer, the Commissioner of Revenue and the Registrar at 2.4 percent effective July 1, 2004.

Councilwoman Winter seconded the motion.

The Mayor called for a vote on the motion, which carried unanimously by a roll call vote, recorded as follows: In favor, Councilmembers Cross, Greenfield, Lyon, Rasmussen, Silverthorne and Winter; opposed, none.

Councilmember Winter moved to amend the main motion to approve the health benefit contribution rates for the City of Fairfax and eligible employees for fiscal year 2004-2005 as

specified in Attachment D-2 and further moved that the City Manager is directed to implement the employee benefits as provided for and described in the adopted fiscal year 2004-2005 budget.

Councilwoman Lyon seconded the motion.

The Mayor called for a vote on the motion, which carried unanimously by a roll call vote, recorded as follows: In favor, Councilmembers Cross, Greenfield, Lyon, Rasmussen, Silverthorne and Winter; opposed, none.

Councilwoman Lyon moved to set the real estate tax rate for the 2004 tax year at \$.90 per one hundred dollars assessed valuation with \$.03 per one hundred dollars assessed valuation to be transferred to the Open Space Fund.

Councilman Silverthorne seconded the motion.

The Mayor called for a vote on the motion, which carried unanimously by a roll call vote, recorded as follows: In favor, Councilmembers Cross, Greenfield, Lyon, Rasmussen, Silverthorne and Winter; opposed, none.

Councilman Silverthorne moved to set the personal property and machinery and tools tax rate for the 2004 tax year at \$3.29 per one hundred dollars assessed valuation based upon the assessment ratio of one hundred percent of fair market value.

Councilman Rasmussen seconded the motion.

The Mayor called for a vote on the motion, which carried unanimously by a roll call vote, recorded as follows: In favor, Councilmembers Cross, Greenfield, Lyon, Rasmussen, Silverthorne and Winter; opposed, none.

Councilman Greenfield moved to set the personal property tax rate for the 2004 tax year at \$.01 per one hundred dollars assessed valuation for those members of volunteer fire departments or volunteer rescue squads qualifying under the City Code.

Councilmember Winter seconded the motion.

The Mayor called for a vote on the motion, which carried unanimously by a roll call vote, recorded as follows: In favor, Councilmembers Cross, Greenfield, Lyon, Rasmussen, Silverthorne and Winter; opposed, none.

Councilwoman Lyon moved approval of the rates for the Water and Sewer Systems incorporating any changes made earlier in this meeting.

Councilman Greenfield seconded the motion.

The Mayor called for a vote on the motion, which carried unanimously by a roll call vote, recorded as follows: In favor, Councilmembers Cross, Greenfield, Lyon, Rasmussen, Silverthorne and Winter; opposed, none.

Councilman Greenfield moved to adopt the proposed 2004-2005 Schedule of Rates and Levies, incorporating any changes made earlier in this meeting.

Councilwoman Lyon seconded the motion.

The Mayor called for a vote on the motion, which carried unanimously by a roll call vote, recorded as follows: In favor, Councilmembers Cross, Greenfield, Lyon, Rasmussen, Silverthorne and Winter; opposed, none.

The Mayor called for a vote on the main motion, as amended, which carried unanimously by a roll call vote recorded as follows: In favor, Councilmembers Cross, Greenfield, Lyon, Rasmussen, Silverthorne and Winter; opposed, none.

Consideration of adoption of an ordinance amending Section 102.31 of the Code of the City of Fairfax, Virginia to increase the water and sewer rate by five percent. (Introduced March 9, 2004.)

Councilman Rasmussen moved adoption of an ordinance amending Section 102-31, Article II, Chapter 102 of the Code of the City of Fairfax, Virginia, to increase the water and sewer service rates by 5%.

Councilmember Winter seconded the motion.

Councilmember Silverthorne said the rates remain among the lowest in Northern Virginia. He said he hopes that the city will look for opportunities to increase capacity to offset increasing costs.

The Mayor called for a vote on the motion, which carried unanimously by voice vote.

The Mayor congratulated staff and colleagues for all the work that went into the budget process. He said he hoped to reduce the tax rate lower but not having a balanced State budget made it difficult to be as aggressive as they would have liked. He reminded the community that 10% of the budget is in direct aid and revenue from the state of Virginia. He said the City Charter states the city must approve their budget no later than April 15th of each year. He said, by far, the City has the lowest tax rate in the northern Virginia region, by about \$.08, and offers the highest level of city services in the State of Virginia.

Councilwoman Lyon thanked the staff for their hard work during the budget process.

Councilman Silverthorne requested a short recess to view the Presidential News Conference in process.

The Mayor recessed the regular meeting at 8:35 p.m. and reconvened at 9:00 p.m.

Consideration of a settlement agreement pertaining to condemnation litigation against Robert E. Stafford, Sr. & Associates, L.P., for the acquisition of approximately 23.2327 acres of property located on the east and west sides of Stafford Drive.

Councilman Silverthorne moved to adopt a resolution authorizing a settlement agreement pertaining to condemnation litigation against Robert E. Stafford, Sr. & Associates, L.P., for the acquisition of approximately 23.2327 acres of property located on the east and west sides of Stafford Drive, identified as tax map numbers 47-4-((2))-4 (Part).

Councilman Rasmussen seconded the motion.

Councilman Silverthorne said this is the largest piece of open space that the city will be purchasing and was pleased to find middle ground with the property owners.

Councilman Rasmussen said this is a major acquisition and thanked Councilman Silverthorne for initiating the open space acquisition initiative, which made it possible for the city to acquire a significant amount of open space. Secondly, he thanked the previous City Council, who started the process to acquire this property, and the current City Council, which continued with the initiative. He also thanked the city attorneys who performed above and beyond in turning this from a condemnation proceeding to a purchase proceeding. Finally, he thanked the Stafford family.

The Mayor called for a vote on the motion, which carried unanimously by voice vote.

Approval of minutes.

Councilman Greenfield moved approval of the minutes of March 23, 2004.

Councilwoman Cross seconded the motion, which carried unanimously by voice vote.

Comments by City Council.

Councilman Silverthorne gave an update on the planning of Bicentennial activities. He asked City Council for their consensus to request staff to bring an appropriation forward for \$30,000 for a timeline/calendar which would be distributed city-wide.

There was consensus for staff to return with an appropriation resolution for \$30,000 for the publication and mailing of the Bicentennial timeline/calendar.

Councilwoman Lyon requested that a review of consultant fees/services for 2004, 2005 and the CIP through 2009 be discussed at a future work session.

Councilwoman Lyon spoke about a recent *Washington Post* article regarding cut-through traffic. She said the article was about a signal light that monitors the speed of motorists and flashes red when they are speeding. She asked Mr. Veneziano to investigate the system.

Councilmember Winter wished Mrs. McAdams a happy birthday.

Councilmember Winter thanked her colleagues, the staff and citizens that have been involved with the budget.

Councilmember Winter asked staff about the status of a blighted residence on Jermantown Road near Providence Elementary School.

Building Official Andrew Wilson said the previous owner had gutted the house without a permit and the city condemned the house, which has now been sold. He said the current owner has decided to tear down the building.

The Mayor asked staff about a boarded up garage on a property on Cedar Avenue.

Mr. Wilson said it does not meet the requirements of the blighted ordinance.

The Mayor asked for a work session item about revising the zoning ordinance on blighted properties.

Councilman Greenfield said that the Fairfax Festival Choir had been selected to represent the state of Virginia in the *American Celebration of Music in Italy* during the summer of 2005. He requested staff to provide a recommendation regarding financial support.

The Mayor suggested seeking the support of the City School Board as well.

Councilman Greenfield requested that the Fairfax High School Chorus be invited to participate in the Bicentennial celebration.

Councilman Silverthorne said he would pass on the request.

Councilman Greenfield talked about items that were not funded in the budget such as the storage facility at Fire Station 33. He asked staff to return with an appropriation resolution to fund from 2004 funds.

Councilwoman Cross said she would be interested to know that alternatives were considered.

It was the consensus of City Council to return with the appropriation.

Councilwoman Cross complimented the person who collected trash at Daniels Run Park.

The Mayor recessed the regular meeting at 9:20 p.m. to conduct a work session in Room 306.

The Mayor reconvened the regular meeting at 10:25 p.m.

Closed meeting.

The Mayor moved that the City Council convene in a closed meeting pursuant to Section 2.2-3711.A.3 of the *Code of Virginia* to discuss acquisition of certain real property for public purposes and Section 2.2-3711.A.7 for consultation with legal counsel for legal advice.

Councilman Silverthorne seconded the motion, which carried by a vote of 7-0, recorded as follows: In favor, Mayor Lederer and Councilmembers Cross, Greenfield, Lyon, Rasmussen, Silverthorne and Winter; opposed, none.

Council went into a closed meeting at 10:30 p.m., and reconvened the meeting at 11:20 p.m.

The Mayor said Council concluded its closed meeting to discuss acquisition of certain real property for public purposes and for consultation with legal counsel for legal advice.

The Mayor moved that each member of Council certify that to the best of each Council member's knowledge, only public business matters lawfully exempted from the open meeting requirements in the Virginia Freedom of Information Act and only public business matters identified in the motion convening the closed meeting were heard, discussed or considered.

Councilman Silverthorne seconded the motion, which carried by a vote of 7-0, recorded as follows: In favor, Mayor Lederer and Councilmembers Cross, Greenfield, Lyon, Rasmussen, Silverthorne and Winter; opposed, none.

Appointments to boards and commissions.

Councilmember Winter moved the appointment of David Meyer to Historic Fairfax City, Inc. for a term extending through December 31, 2004.

Councilmember Greenfield seconded the motion.

The Mayor called for a vote on the motion, which carried unanimously by voice vote.

The Mayor requested that the vacancy for the Board of Zoning Appeals be re-advertised.

Councilman Silverthorne moved to approve a settlement agreement pertaining to condemnation litigation against the estate of Sigrid Christel Jester for the acquisition of approximately three acres of property located at 10735 West Drive, identified as tax map numbers 57-3-((2))-12A and 57-3-((2))-12B for the sum of \$750,000.

Councilmember Winter seconded the motion.

The Mayor called for a vote on the motion, which carried unanimously by voice vote.

Adjournment.

The meeting adjourned at 11:25 p.m.

Mayor

ATTEST:

City Clerk